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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,905	09/26/2001	Todd A. Hagan	0275D-000435	9433
27572	7590	11/05/2003	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			HARMON, CHRISTOPHER R	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3721	

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/963,905

Applicant(s)

HAGAN ET AL.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) 31 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-15,29,30 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 31 and 33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. The Request for Continued Examination filed on 09/963,905 (RCE) under 37 CFR 1.114 based on parent Application No. 09/963,905 is acceptable and a RCE has been established. An action on the RCE follows.

Election/Restrictions

2. Newly submitted claims 31 and 33 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the handle structure of the new claims are considered as subcombinations usable together with the originally claimed invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 31 and 33 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-2, 4-15, 29-30, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Terada (US 5,692,574).

Terada discloses a portable power tool comprising a motor housing structure 3 and a secondary structure 5; see figure 1B. The housing structure further comprises three molded portions 3a-3c. Overmold portion 30 is molded to fit on an exterior surface of projection 15 extending from housing portion 3c. Overmold portion 30 forms a seal with housing portion 3c and secondary structure 5. Overmold portion 30 is rubber suited to dampen vibrations between the housing structure 3 and secondary structure 5.

Regarding claim 2, secondary structure 5 is an end cap consisting of a handle.

Regarding claims 6-8, overmold portion 30 is a bumper member linked by a smaller diameter portion/groove 31 to seal portion/raised lip/isolator portion; see figure 2B.

Regarding claims 13-15, secondary structure 5 has stop member 21 extending therefrom which couples with bumper member 30; see figures 3A and 3B. Overmold portion 30 conforms to the shape of the secondary structure 5 and is raised from the exterior surface (see figure 3B).

5. Alternatively, claims 1, 9, 30, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Schell et al. (US 5,738,177).

Schell et al. disclose a production assembly tool comprising a first structure 34 and a second structure 18, the first structure having a overmold portion 14 and structural portion 12. The overmold portion 14 is made from a resilient material/elastomer (neoprene rubber) and contacts the second structure 42 effectively

dampening vibrations and stresses; see figures (1B and 19). Schell et al. disclose bumper member 76 for abutting the second structure 18 and limiting movement. Linking members 86 link the bumper 76 and overmold 14.

Response to Arguments

6. Applicant's arguments filed 9/23/03 have been fully considered but they are not persuasive. The rubber ring 30 of Terada is considered a thermoplastic elastomer overmold portion.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch



**EUGENE KIM
PRIMARY EXAMINER**